

**REMARKS**

In response to the Office Action mailed June 6, 2003, kindly enter the foregoing amendment and consider the following remarks.

Pursuant to 37 C.F.R. §1.112 Applicants request reconsider of each and every ground of rejection set forth in the Office Action.

The Office Action and the references cited therein have been carefully considered. In this Amendment, claims 6 has been amended. Thus claims 1-7 are pending and are at issue herein. In view of these amendments and the following remarks, favorable reconsideration of this application is requested.

**NOTICE OF REFERENCES CITED**

The Applicants would like to note that the Examiner has cited the German patent reference Graeber (DE 19648596). However, the Examiner has not listed that reference in the Notice of References Cited. Even though this reference is identified in paragraph 20 of the specification, the Applicants respectfully request that the Examiner list this reference on the Notice of References Cited so that it may be printed on the front page of the patent to be eventually issued.

*Give him  
paragraph  
on listing  
References in  
Specification*

Generally, the Applicants have struggled to find any of the elements of the inventions, as recited in the claims, in the Abstracts of the cited foreign references. The Applicants direct the Examiner's attention to MPEP §706.02 under the heading "Reliance Upon Abstracts Foreign Language Documents in Support of a Rejection". The MPEP notes that when an Abstract is used to support a rejection, the evidence relied upon is the facts contained in the abstract, not additional facts that may be contained in the underlying full text document. The MPEP also notes that if the document is in a language other than English and the Examiner seeks to rely on that document, a translation must be obtained so that the record is clear as to the precise facts the Examiner is relying upon in support of the rejection.

If the Examiner is relying on an internal translation of these documents, the Applicants respectfully request that the Examiner supply such translations to the Applicants. The record must also be clear as to whether the Examiner is relying upon the abstract or the full text document to support the rejection, which has several explicitly listed rationales. The Applicants respectfully request clarification of the record.

#### INFORMATION DISCLOSURE STATEMENT

The Examiner has objected to the Information Disclosure Statement filed on September 12, 2001 for failing to include a concise explanation of the relevance of each patent listed that is not in the English language.

In response thereto, the Applicants have submitted a Supplemental Information Disclosure Statement containing English abstracts of all of the German patent references listed in the aforementioned Information Disclosure Statement. Further, the Applicants have submitted U.S. Patent No. 5,767,397 which claims priority to DE 19603909. Similarly, Applicants have submitted U.S. Patent No. 6,244,676 which claims priority to JP10-158022. The German reference DE 19920448 also claims priority to the Japanese reference JP10-158022. The Applicants respectfully request that the Examiner consider the references submitted herewith in the Supplemental Information Disclosure Statement.

#### OBJECTIONS TO THE DRAWINGS

The Examiner has objected to the drawings under 37 CFR 1.84(p)(4) because reference character "13" has been used to designate both the pressure sensor and the closed inlet valve in paragraph [0020] on page 9. The Applicants have amended the specification to replace reference character "13" with reference character "11" to properly identify the inlet valve. No correction to the drawings is believed to be needed.

The Examiner has objected to Figure 1 and asserts that the figure should be

designated by a legend such a Prior Art because only that which is old is illustrated. To the contrary, the specification at paragraph [0020] states that only a subarea of a prior art brake circuit is represented in Figure 1. Contrary to the Examiner's assertions, Figure 1 presents a view of the circuit of the present invention for determining parameters, such as by utilizing pressure sensor 13.

The Examiner has objected to Figure 1 because it shows a reference number 2 which appears to have a German word adjacent the number. The Applicant has submitted corrected Figure 1 which removes the objectionable content.

For these reasons and all the reasons given above, Applicants respectfully requests that the Examiner reconsider and withdraw these objections.

#### CLAIM REJECTIONS UNDER 35 USC §102

The Examiner has rejected Claims 1, 3 and 4, under 35 U.S.C. §102(b) as being anticipated by Meier. (DE 4408879). Apparently, the Examiner is only applying the Abstract and the figures against the Applicants, although no English Abstract was provided. The Examiner asserts the Abstract discloses all the elements of independent claim 1. However, the Abstract merely discloses that the hydraulic pump which is driven during an ABS or ASR event is reduced after a certain delay time. That delay time can vary depending on the fluid viscosity, battery voltage and the instantaneous pressure requirement.

As is known in the art, an ASR event requires less pressure than is generally needed for an ABS event, and thus the number of revolutions of the engine or the running of the pump may be reduced. This eliminates unpleasant acoustic interferences and conserves power from the engine. It is believed that the Meier reference simply discloses that the time delay before reducing the speed of the pump may vary based on the viscosity of the hydraulic fluid, which has a direct relation to the temperature of the hydraulic fluid.

Meier simply does not disclose detecting a pressure in a defined section of

the brake circuit, nor does it disclose measuring at least one of a magnitude of the pressure or a time which is required to build up the pressure. Finally, Meier simply does not disclose relating the magnitude of the pressure or the time to build up the pressure the viscosity of the brake fluid. As these elements of independent claim 1 are not disclosed by Meier, the Applicants respectfully request the Examiner reconsider and withdraw this rejection of claim 1, as well as its dependent claims 2-5.

The Examiner has rejected claim 6 and 7 under 35 U.S.C. §102(b) as being anticipated by Hadelar (U.S. Patent No. 5,809,444). A thorough reading of Hadelar reveals that the reference discloses a stability control system which maintains preferred vehicle dynamics by actuating the brakes, i.e., in a over steer or under-steer situation, a skidding situation, or other braking interventions. The Hadelar system may provide signals to actuate the brakes, utilizing control variables including a steering angle, reference speed, roadway driving condition, which can be converted to yaw rates and torque. Pressure quantities are simply not used by Hadelar, nor is there a determination of the viscosity of brake fluid.

Hadelar simply does not disclose many of the elements recited in independent claim 6. For example, Hadelar does not disclose comparing calculated pressure quantities with pressure quantities determined in a pressure metal. Further, Hadelar does not disclose determining the viscosity of brake fluid over brake circuit by detecting in at least one defined section a pressure and measuring at least one of a magnitude or offset pressure or a time which is required to build up said pressure. Finally, Hadelar simply does not disclose evaluated or modifying the pressure quantities determined in the pressure metal as a function of the viscosity of the brake fluid.

Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw this rejection.

CLAIM REJECTIONS UNDER 35 USC §103

The Examiner has rejected Claims 2 and 5 under 35 U.S.C. §103(a) as being unpatentable over Meier in view of Graeber (DE 19648596). Without reaching the propriety of the proposed modification or combination of references, claims 2 and 5 depend from independent claim 1, which has been discussed above with reference to Meier. The Applicants would like to note that the Graeber reference (at least as reflected in the English abstract provided in corresponding PCT Publication No. WO 98/23473) simply shows the existence of a separating valve 10 which is utilized to separate the main cylinder 3 from the wheel brakes 17, 18 in order to allow an ABS system to operate. Nothing teaches or suggests the use of the switching valve in building up a pressure in a defined section of the brake circuit. Furthermore, the Applicants reiterate the comments given above with regard independent claim 1 and the Meier reference. Accordingly, Applicants respectfully request that the Examiner reconsider and withdraw the rejection of claims 2 and 5.

CONCLUSION

In view of the preceding amendments and remarks, the Applicants respectfully submit that the specification is in order and that all of the claims are now in condition for allowance. If the Examiner believes that personal contact would be advantageous to the disposition of this case, the Applicants respectfully request that the Examiner contact the Attorney of the Applicants at the earliest convenience of the Examiner.

Applicants have calculated no fees to be presently due in connection with the filing of this Paper. However, Applicants have authorized charging of any fee deficiency to a, as indicated in the Transmittal accompanying this Statement.

Respectfully submitted,

7/2/03

Date



Michael N. Spink (Reg. No. 47,107)

☒ Attorney/Agent Of Record

☐ 37 C.F.R. 1.34(a)

Attachment: Drawing Replacement Sheet